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401.2 Philosophy And Purpose

The Child and Family Services Adoption Program helps children become members of an adoptive family that can meet the unique needs of the child.

401.1 Adoptive Family Recruitment

Major objectives:

- A. Child and Family Services will utilize private child placement agencies or adoption exchanges if necessary to find adoptive families in or out of state.
- B. In addition, other recruitment activities may include media coverage, newspaper listings, radio spots, or adoption parties in-state or out-of-state.

Summary of the Law

62A-4a-106. Services provided by division.

(1) The division may provide, directly or through contract, services that include, but are not limited to, the following:

- (a) adoptions;

62A-4a-607. Promotion of adoption -- Agency notice to potential adoptive parents.

(1) (a) The division and all child placing agencies licensed under this part shall promote adoption when that is a possible and appropriate alternative for a child. Specifically, in accordance with Section 62A-4a-205.6, the division shall actively promote the adoption of all children in its custody who have a final plan for termination of parental rights pursuant to Section 78-3a-312 or a primary permanency goal of adoption.

(b) Beginning May 1, 2000, the division may not place a child for adoption, either temporarily or permanently, with any individual or individuals who do not qualify for adoptive placement pursuant to the requirements of Sections 78-30-1, 78-30-1.5, and 78-30-9.

(2) The division shall obtain or conduct research of prior adoptive families to determine what families may do to be successful with their adoptive children and shall make this research available to potential adoptive parents.

(3) (a) A child placing agency licensed under this part shall inform each potential adoptive parent with whom it is working that:

- (i) children in the custody of the state are available for adoption;
- (ii) Medicaid coverage for medical, dental, and mental health services may be available for these children;
- (iii) tax benefits, including the tax credit provided for in Section 59-10-133, and financial assistance may be available to defray the costs of adopting these children;
- (iv) training and ongoing support may be available to the adoptive parents of these children; and

- (v) information about individual children may be obtained by contacting the division's offices or its Internet site as explained by the child placing agency.
- (b) A child placing agency shall:
- (i) provide the notice required by Subsection (3)(a) at the earliest possible opportunity; and
- (ii) simultaneously distribute a copy of the pamphlet prepared by the division in accordance with Subsection (3)(d).
- (c) As a condition of licensure, the child placing agency shall certify to the Office of Licensing at the time of license renewal that it has complied with the provisions of this section.
- (d) Before July 1, 2000, the division shall:
- (i) prepare a pamphlet that explains the information that is required by Subsection (3)(a); and
- [See: Administrative Rule [R512-41](#), which also follows the Adoption Practice Guidelines.]

Procedures

- A. Adoptive Family Recruitment Plan - Annually, in coordination with the state adoption specialist, each region will develop a recruitment plan. Regions may be requested to participate with additional recruitment efforts. Recruitment efforts shall be coordinated with the Utah Foster Care Foundation.
- B. Plan Requirements - The recruitment plan will at a minimum:
1. Establish the number of adoptive homes needed, including specific needs of the children they anticipate placing;
 2. Identify retention and training components;
 3. Identify advertising activities;
 4. Identify other agencies or resources that will be contacted.

401.2 Qualifying An Adoptive Family

Major objectives:

Families who wish to become adoptive families, including kin or Child and Family Services employees, must meet all of the following requirements:

- A. Complete adoption training program approved by Child and Family Services (preferably before the child is placed in the home).
- B. Be assessed and approved as an adoptive family following completion of a home study by a licensed child placement agency.
- C. Obtain a foster care license issued by the Department of Human Services, Office of Licensing, or meet the same standards, or receive a written waiver of a standard.
- D. Receive a determination by Child and Family Services that no conflict of interest exists in the adoption process.

Summary of the Law

78-30-1. Who may adopt -- Adoption of minor -- Adoption of adult.

(1) Any minor child may be adopted by an adult person, in accordance with the provisions and requirements of this section and this chapter.

(2) Any adult may be adopted by another adult. However, all provisions of this chapter apply to the adoption of an adult just as though the person being adopted were a minor, except that consent of the parents of an adult person being adopted is not required.

(3) (a) A child may be adopted by:

(i) adults who are legally married to each other in accordance with the laws of this state, including adoption by a stepparent; or

(ii) any single adult, except as provided in Subsection (3)(b).

(b) A child may not be adopted by a person who is cohabiting in a relationship that is not a legally valid and binding marriage under the laws of this state. For purposes of this Subsection (3)(b), "cohabiting" means residing with another person and being involved in a sexual relationship with that person.

[See: Utah Administrative Code [R512-40-5](#). Application by Staff of the Division of Child and Family Services.]

- 133
134 A. Staff members of Child and Family Services may apply to adopt and may adopt
135 children in State custody in the following manner:
136 1. The person applies in the region of residence.
137 2. The home study will be completed by staff of another region on a
138 cooperative basis upon the request of the regional director.
139 3. Approval of placement of a child in a staff member's home will be by the
140 region having custody of the child. If the prospective adoptive parent is
141 from the same region as the child, the placing committee will consist of
142 the child's worker, outside child welfare specialists, and the State
143 Adoption Specialist. Supervision will be by the placing region, unless the
144 child and prospective parent are from the same region, in which case,
145 another region will provide supervision.
146
147 B. Adoption Assessment (Home Study) Requirements - The caseworker will ensure
148 that the following requirements are included in an adoption assessment
149 consistent with the standards of the Child Welfare League of America (the
150 assessment may be done by a private child placement agency or Child and
151 Family Services):
152 1. Criminal background checks of all adults present in the home;
153 2. Child abuse screening of all adults present in the home;
154 3. Autobiography of parent(s) and family members;
155 4. Behavioral assessment of parent(s) and children living at home;
156 5. Health status verification of parent(s) and children living at home;
157 6. Financial status verification;
158 7. Home safety and health assessment;
159 8. Assessment of parenting skills for children living at home;
160 9. Recommendation - types of children that are appropriate for prospective
161 adoptive family.
162

401.3 Matching The Child And The Adoptive Family

Major objectives:

- A. In the matching process, the selection of an adoptive family will be in the best interest of the child.
- B. The adoption decision must be based on a thorough assessment of the child's current and potential developmental, medical, emotional, and educational needs.
- C. The ability of the adoptive or foster/adoptive care family to successfully meet the child's needs and to love and accept the child as a fully integrated member of the family must be considered.
- D. Child and Family Services shall comply with The Interethnic Placement Act.
- E. Sibling groups should not be separated. When separation is necessary to protect the well-being of one or more children in the sibling group, all reasonable efforts must be made to maintain contact between siblings.

Summary of the Law

42 United States Code Section 1996b - Interethnic Adoption

(1) Prohibited Conduct

A person or government that is involved in adoption or foster care placements may not-

(A) deny to any individual the opportunity to become an adoptive or foster care parent, on the basis of the race color, or national origin of the individual, or of the child, involved; or

(B) delay or deny the placement of a child for adoption or into foster care, on the basis of the race, color, or national origin of the adoptive or foster parent, or the child involved.

Procedures

- A. Child's Preference - The child's preference may be considered, if they have the capacity to express a preference.
- B. Foster Care Family Preference - A foster care family (or other caregiver with physical custody) of the child may be given preferential consideration for adoption if the child has substantial emotional ties with the foster

203 family/caregiver and if removal of the child from the foster family/caregiver
204 would be detrimental to the child's well-being.
205

206 D. Geographic Boundaries - Geographic boundaries alone should not present
207 barriers or delays to the selection of an adoptive home.
208

209 E. Indian Child Welfare Act (ICWA) - The ICWA takes precedents for an adoption
210 of an Indian child who is a member of a federally recognized tribe or Alaskan
211 native village.
212

401.4 Adoption Decision

Major objectives:

Permanency decisions should be made in a timely manner, recognizing the child's developmental needs and sense of time. If not already in the adoptive home, Child and Family Services shall make intensive efforts to place the child with an adoptive family within 30 days after the court has freed the child for adoption. Adoptive families must commence all requirements for approval, if any early placement is made.

Summary of the Law

No governing statute.

Procedures

- A. Child and Family Services will appoint and convene an adoption committee or committees to select an adoptive or foster/adoptive care family that is in the best interest of the child and to determine the level of adoption assistance, if any. The committee is also responsible for considering removal of the child from a placement.
- B. The adoption committee should consist of at least three members to include senior level Child and Family Services staff and one or more members from an outside agency with expertise in adoption and foster care.
- C. Anyone who has information regarding the child and the potential matching families may be invited by the committee to present information but not participate in the deliberations. The committee will reach a decision through a consensus. The committee will submit their recommendation to the region director the Child and Family Services director, if needed, who will make the final decision.
- D. The committee will make and retain a written record of their proceedings. All proceedings are confidential.
- E. Any member of the committee who has a potential conflict of interest must recuse himself or herself from the proceeding.
- F. When the adoptive family for the child has been approved, the caseworker will notify the family in writing of their selection.

- 253
254 G. The caseworker shall provide detailed information about the child to the
255 prospective adoptive parents, allowing sufficient time for the prospective
256 adoptive parents to make an informed decision regarding placement of the child
257 in their home. The information given to the adoptive parents must be a full
258 disclosure of all information available and committed to writing. Release of all
259 documents is subject to the Government Records Management Act (GRAMA).
260 The adoptive parent(s) shall be advised of possible financial and medical
261 assistance available to meet the special needs of the child. The caseworker and
262 the prospective adoptive parents will acknowledge receipt of the information by
263 signing the Child and Family Services' information disclosure form. The
264 caseworker shall respond to questions or concerns of the potential adoptive
265 parents. When relevant, the caseworker shall encourage adoptive parents to
266 consult with other family members living in the home in making the decision.
267 The prospective parents shall have the opportunity to meet the child prior to
268 permanent placement.
269
- 270 H A family that is not selected for an adoptive placement of a specific child shall
271 have no right to appeal the decision, unless the family not selected for the
272 adoptive placement is the child's current foster family and the foster family has
273 completed all requirements for approval as an adoptive family. If the foster
274 family is not selected for the adoptive placement, the foster parent due process
275 rights for removal of a child applies. [See: Foster Parents Due Process, Utah
276 Administrative Code, Human Services Rule [R512-31](#).]
277
- 278 I. When an approved adoptive family agrees to accept the placement of a child for
279 adoption, the adoptive parents and a representative from Child and Family
280 Services shall sign an adoption agreement on a form provided by Child and
281 Family Services.
282
- 283 J. When a family agrees to accept the placement of a child who is not free for
284 adoption, the parents shall sign the Foster Child Adoption Agreement form.
285
- 286 K. No identifying information regarding the adoptive parents shall be released to
287 birth families without the written consent of the adoptive parents.
288

401.5 Adoption Training

Major objectives:

Adoptive and Adoptive/Foster Care Family Training - To successfully care for a child, the caseworker will verify that the adoptive families and adoptive/foster care families have completed a training course approved by Child and Family Services prior to the child's placement in the home.

Summary of the Law

No governing statute.

Procedures

- A. Training for Adoptive and Adoptive/Foster Care families may consist of classroom courses and/or in-home study materials as approved by Child and Family Services and regional training staff. Training may be provided by the Child and Family Services, or Child and Family Services may accept training provided by another agency if it meets the standards of Child and Family Services. The caseworker will verify that all required training has been completed. The training must address at least the following:
 1. Orientation to Child and Family Services programs;
 2. Team building;
 3. Family systems;
 4. Child development;
 5. Abuse and neglect;
 6. Sexual abuse;
 7. Attachment/separation issues;
 8. Discipline;
 9. Cultural issues;
 10. Primary families;
 11. Effects of care giving on the family;
 12. Permanency issues for children and families.
- B. Specialized Training - The adoption caseworker may require the adoptive family to receive more specialized training before placement to ensure the parents have the necessary skills to meet the needs of the child that they are willing to adopt. Specialized training may address such topics as medically fragile infants, adolescents, behavioral challenges, and others.
- C. The caseworker will ensure that the family:

1. Has completed Child and Family Services approved adoption training;
 2. Has been assessed and qualified to adopt by a licensed child placement agency or Child and Family Services;
 3. Has received a foster care license issued by the Office of Licensing, or if the family is interested only in a child who is legally free for adoption at the time of placement, then a license is not required, but there must be documentation that the standards of a foster care license are met.
 4. And if the adoptive family is a Child and Family Services employee, the appropriate procedure has been followed to ensure that no conflict of interest exists in completion of the assessment, placement, and supervision. [See: Utah Administrative Code [R512-40.5.](#)]
- D. Screening - The caseworker shall explain the Criminal Background Check, and Child Abuse Database Screening and explain that an FBI check (including fingerprinting) is needed if the applicant has not lived in Utah for the past five years. The caseworker will explain the authorization form for the Criminal Background Check, and Child Abuse Database Screening. If the applicant(s) does not pass the Criminal Background Check or the Child Abuse Database Screening, the caseworker will inform the applicant(s) that they are not eligible to proceed with the assessment.
1. Criminal Background Check - Complete a criminal background check for all adults present in the home.
 2. Child Abuse Database Screening - Complete a child abuse database screening for all adults present in the home.
- E. Assessment - Each region may develop their own assessment form and process. The caseworker or other child placement agency will use the following criteria to assess the potential of prospective adoptive families to determine if the adoption placement is in the best interest of the child. The caseworker should consider the child's kin or extended family as a possible placement at this stage of the process.
1. Child's Needs and Family's Strengths - The selection of an adoptive family shall be based upon the child's needs and the family's strengths.
 2. Race, Ethnicity, and Culture - An adoptive placement shall not be delayed or denied on the basis of race, color, or national origin of the adoptive or foster family or child, as required by federal law.
 3. Religious Preference - A child's religious preference may be taken into consideration in the selection of an adoptive family.
 4. Safety of Children in Home - No child should be placed in a specific adoptive or adoptive/foster care home if the placement would put other children residing in the home at risk.

5. Preferential Placement Requirements Foster Family or Other Caregiver with Physical Custody - A foster family (or other caregiver with physical custody) of the child may have preferential consideration for adoption if the child has substantial emotional ties with the foster family/caregiver and if removal of the child from the foster family/caregiver would be detrimental to the child's well-being.
6. Guardian ad Litem (GAL) Recommendation - The caseworker should solicit and consider the input of the child's GAL in selecting the adoptive placement.
7. Age of Adoptive Parents - The selection of the adoptive parents shall not be based upon the age of the adoptive parents, except that the adoptive parents must be at least 10 years older than the child placed for adoption. [See: Utah Code Ann. [§78-30-2](#).] The Office of Licensing, Rules for Child Placing Agencies, Rule R501-7-5.3.b.(2) states, "Age: Chronological age alone should not be the determining factor for the selection of adoptive parents. Utah statutes require that the adoptive parents be at least ten years older than the child placed for adoption. Physical condition and life expectancy of the applicants should be taken into consideration to protect the child against a repeated, foreseeable loss of parents through death or incapacitating illness. Also, it is important for applicants to be physically and emotionally capable of meeting the needs of the children as they grow and develop."

401.6 Foster Family Preferential Consideration

Major objectives:

Foster Family Preferential Consideration - Foster parents may be given preferential consideration when applying to adopt a child in their care. However, the adoption committee may choose not to make the adoptive placement with the foster family who has become licensed for adoption, if good cause can be demonstrated. The major objectives for removing a child from a foster family shall be followed. [See: Utah Administrative Code, Human Service Rule [R512-31](#).] Reasons for not placing the child with the foster family for adoption shall be documented in the case record and provided to the family in writing.

Summary of the Law

78-30-1.6. Children in the custody of the Child and Family Services of Child and Family Services -- Consideration of child's relationship with foster parents who petition for adoption.

In assessing the best interest of a child in the custody of the Division of Child and Family Services whose foster parents have petitioned for adoption, the court shall give special consideration to the relationship of the child with his foster parents, if the child has been in that home for a period of six months or longer.

Procedures

The foster family or caregiver's application to adopt shall be processed and, if satisfactory, the adoptive assessment completed before any other applications to adopt the child are processed. For preferential consideration, the foster family or caregiver shall submit the application for an adoptive assessment to Child and Family Services within 60 days of the change of the goal to adoption or of the court's discontinuation of reunification. If parental rights have been terminated, the application shall be submitted within 30 days.

- A. If the application has not been submitted within 30 days of termination of parental rights, the caseworker shall consider approved adoptive families throughout the state, shall contact other licensed child placing agencies, and shall list the child on appropriate adoption exchanges.
- B. Factors that shall be taken into consideration regarding selection of the home for adoptive placement shall be consistent with those a court would use to

determine if the foster family would be selected. [See: Utah Code Ann. [§78-3a-410](#).]

- C. Foster Parents Procedures for Preferential Adoptive Placement - When evaluating the foster parents as adoptive parents, consider the following:
1. The extent to which the child has become integrated into the foster family and has familial identity with that family;
 2. The ability and willingness of the foster family to treat the child as a family member;
 3. The love, affection, and other emotional ties existing between the child and the foster family, and the child's ties with the foster family;
 4. The capacity and disposition of the foster family to give the child love, affection, and guidance, to meet the emotional needs of the child, and to provide for the education of the child;
 5. The length of time the child has lived with a stable, satisfactory foster family and the desirability of the child's continuing to live in that environment;
 6. The likely permanence of the foster family as a family unit.

401.7 Adoption Committee

Major objectives:

The adoption committee shall select an adoption placement that is in the best interest of the child.

Summary of the Law

78-30-1.5. Legislative intent -- Best interest of child.

(1) It is the intent and desire of the Legislature that in every adoption the best interest of the child should govern and be of foremost concern in the court's determination.

(2) The court shall make a specific finding regarding the best interest of the child, in accordance with Section 78-30-9 and the provisions of this chapter.

Procedures

- A. The region director shall annually establish terms of service for members of the adoption committee and frequency of adoption committee meetings.
- B. The committee may meet in any location appropriate for the case.
- C. The proceedings of the committee are confidential and each participant at the adoption committee meeting shall sign a confidentiality statement.
- D. If no Child and Family Services caseworker with adoption experience is available in the local area to participate on the adoption committee, an individual with adoption expertise from outside of the area may be included on the committee, such as the state program specialist, a clinical consultant, or an adoption caseworker from another region. The adoption committee should have at least three members.
- E. Decisions of the committee shall be made by consensus of the committee. If the committee is unable to reach a consensus, the decision shall be referred to the region director.
- F. Minutes shall be taken at each adoption committee meeting. A copy of the minutes shall be maintained at the local office or at a centralized location within the region. Copies of relevant portions of the minutes may be added to a child's case record. Confidentiality forms shall be maintained with the minutes.

- 489 G. Referring Caseworker - The referring caseworker is responsible for presenting
490 the information necessary for the adoption committee to assess the adoptive
491 placement alternatives for the child. Include a list of information about child to
492 be considered. The referring caseworker shall not serve on the adoption
493 committee.
494
- 495 H. Identifying Possible Adoptive Families - Based upon the child's characteristics,
496 history, and needs, the caseworker shall identify a minimum of three (or list
497 "multiple") possible adoptive families for consideration by the adoption
498 committee, unless preferential placement criterion applies or the exceptional
499 circumstances of the child make identification of three families impractical. If
500 three families cannot be identified because of the exceptional circumstances of
501 the child, the adoption committee may approve fewer options for placement
502 consideration.
503
- 504 I. Approval for Placement for Adoption or for a Placement of a Child Who is Not
505 Free for Adoption - The caseworker will present an assessment with a
506 recommendation concerning the adoptive family to the adoption committee. The
507 adoption committee must approve the adoptive placement of a child who is not
508 free for adoption. The adoption committee may choose not to place a child with
509 any of the proposed adoptive or adoptive/foster care families if it is determined
510 that none of the families will adequately meet the needs of the child. Upon
511 denial, a new search for adoptive/foster care or adoptive families shall be
512 initiated.
513
- 514 J. Justification for Selection of an Adoptive Family - The caseworker will present all
515 relevant information concerning the child and the prospective adoptive families
516 to the adoption committee. The adoption committee will document in the
517 minutes of the meeting the justification for selection of the adoptive family.
518
- 519 K. Justification for Selection of Family Procedures - The adoption committee will
520 select an adoptive family and document the proceedings according to the
521 following:
- 522 1. Explain and document the rationale for selection of the proposed family;
 - 523 2. Explain and document the rationale when none of the proposed adoptive
524 or adoptive/foster care families (including Child and Family Services
525 staff) are selected;
 - 526 3. Explain and document the reasons for not placing siblings together;
 - 527 4. Explain and document the reasons that the selection meets the long-term
528 best interest of the child.

401.8 Matching The Child And The Adoptive Family By The Adoption Committee

Major objectives:

Child and Family Services will use every effort to make a smooth and effective transition to the adoptive home with the foster family, the child, and others who have a supportive relationship with the child. All out-of-home requirements continue to be applicable until the adoption is finalized.

Summary of the Law

Utah Code Annotated §78-30-9

(3)(a) The Legislature specifically finds that it is not in a child's best interest to be adopted by a person or persons who are cohabiting in a relationship that is not a legally valid and binding marriage under the laws of this state. Nothing in this section limits or prohibits the courts placement of a child with a single adult who is not cohabiting as defined in Subsection (3)(b).

(3)(b) For purposes of this section, cohabiting means residing with another person and being involved in a sexual relationship with that person

Utah Code Annotated §78-30-18 Mutual-Consent, voluntary adoption registry - Procedures - Fees

(1) The bureau [Bureau of Vital Records] shall establish a mutual-consent voluntary registry.

(a) Adult adoptees and birth parents of adult adoptees, upon presentation of positive identification, may request identifying information from the bureau, in the form established by the bureau.

Procedures

A. Access to Relevant Records - Adoptive families will have access to all relevant information in the case record to help them understand and accept the child and preserve the child's history.

B. Ongoing Support - Child and Family Services will inform the adoptive family of community services and adoption assistance available before and after the adoption is finalized. Child and Family Services will provide ongoing support to the child and adoptive parents during the transition until finalization of the adoption. At a minimum, the finalization will take six months. Child and Family Services' involvement will continue until the adoption is finalized. As part of the supervision, Child and Family Services will develop a service plan

569 within 30 days of placement. The caseworker shall maintain contact with the
570 adoptive family including frequent visits with the child for at least the first six
571 months after placement. Post adoption services shall be made available, as
572 needed, to the child and family.
573

- 574 C. Parental Request or Concerns with Adoptive Placement - Child and Family
575 Services shall consider removal of a child before an adoption is finalized if the
576 adoptive parents request removal or if serious circumstances impair the child's
577 security or development.
578

- 579 D. Prior to removal, Child and Family Services shall respond to an adoptive family's
580 concerns in a timely manner, counsel with the family, and, if possible and
581 appropriate, offer further treatment, including intensive in-home services or
582 temporary removal of the child from the home for respite purposes.
583

- 584 E. Decision to Remove - If removal is sought, the child and family team shall review
585 the placement progress and present situation and decide to either continue
586 placement with further services or to remove the child from the home. The
587 placement committee will be notified and will assist the child and family team to
588 locate a placement. The region director will review and approve the decision.
589

- 590 F. Documentation of Removal - Removal of a child from an adoptive family shall be
591 documented in the child's record and in the adoptive family record.
592

- 593 G. Notice of Agency Action - If a decision is made to remove the child, a Notice of
594 Agency Action shall be sent to the adoptive parents notifying them of their due
595 process rights. The adoptive family shall be offered the same rights as those
596 offered a foster family regarding removal of a child. [See: Utah Administrative
597 Code, Human Services, Rule [R512-31](#).]
598

- 599 I. Adoption Finalization and Post Adoption - Before an adoption is finalized, the
600 appropriate adoption committee shall review the placement, authorize
601 finalization, and approve adoption assistance, when appropriate.
602

- 603 J. Adult Adoptee or Adoptive Family Request for Records - The adoption records
604 of Child and Family Services shall be made available to the adoptive parents or
605 adult adoptee upon written request in accordance with GRAMA. [See: Utah
606 Code Ann. [§63-2](#).]
607

- 608 K. Priority Guidance for Selecting Adoptive Parents:

1. Indian children must be placed with prospective adoptive families according to the provisions of ICWA.
2. The adoption caseworker will make a full report to the court in the home study that the applicant(s) comply with Utah Code Ann. [§78-30-9](#) and are legally married, or are registered with a court of competent jurisdiction in a common law marriage, or is a single person not cohabiting with another person.
3. The decision to place a child with an adoptive parent or adoptive parents must comply with Utah Code Ann. [§62A-4a-602\(5\)\(c\)](#).
4. Priority in adoption is given as follows:
 - a. To a man and a woman who are legally married. Prospective adoptive parents have a valid proof of a legal marriage or have a court document for registration of a common law marriage from a court of competent jurisdiction.
 - b. To a single parent who is not cohabiting with another person in a sexual relationship. [House Bill 103 codified at Utah Code Ann. [§62A-4a-602\(3\)\(c\)](#).]
5. An individual who is not cohabiting may also be an adoptive parent if the region director determines it is in the best interest of the child. For example, the child requires unique medical, educational, or behavioral care that is not available in the pool of legally married couples.
6. No presumption should be made that individuals who reside together are involved in a sexual relationship.
7. The prospective adoptive parent(s) must complete the Declaration Affirming Compliance with Utah Code Ann. [§78-30-9](#). Couples must present a legal marriage license or court document verifying that their common law marriage has been registered in a court of competent jurisdiction.

Declaration

Affirming Compliance with Utah Code Annotated §78-30-9
for Prospective Foster or Adoptive Parent(s)

[Effective May 1, 2000]

The applicant(s) affirm that they are not cohabiting in a relationship that is not a legally valid and binding marriage under the laws of this state.

Definitions:

Cohabiting means residing with another person and being involved in a sexual relationship with that person.

Residing means living in the same household on an uninterrupted or intermittent basis.

Involved in a sexual relationship means sexual conduct between persons residing together.

The following applicant(s) as foster or adoptive parent(s) with the Child and Family Services of Child and Family Services

Applicant

Applicant

do solemnly swear (or affirm) that they are in compliance with Utah Code Annotated 78-30-9 (see reverse side of this form for the text)

Signed under oath before
(social worker name)

This day _____ of _____ (month) _____ (year)

This Declaration will be submitted to the court as evidence of the applicants' compliance with applicable law. This statement will become a part of the court file and the truth of the representations herein will be relied upon by the court. The submission of false statements under oath is perjury and punishable by law.

Utah Code Annotated §78-30-9, Effective May 1, 2000

(3)(a) The Legislature specifically finds that it is not in a child's best interest to be adopted by a person or persons who are cohabiting in a relationship that is not a legally valid and binding marriage under the laws of this state. Nothing in this section limits or prohibits the courts placement of a child with a single adult who is not cohabiting as defined in Subsection (3)(b).

(3)(b) For purposes of this section, cohabiting means residing with another person and being involved in a sexual relationship with that person

L. Preparation of the Child for an Adoption:

1. The caseworker will make every effort to ensure that an infant who will be free for adoption is placed with a family who is qualified for adoption.
2. The caseworker shall help the child work through the issues associated with adoption (for example, concerns about separation from foster parents, transition to a new family, etc.). A therapist may assist in this process if the caseworker determines that this assistance is needed.
3. When appropriate, the caseworker shall encourage continuation of a child's relationships with individuals with whom the child has previous, supportive emotional ties such as a foster family, a caseworker, a therapist, and/or extended family members. The caseworker shall counsel the adoptive parents concerning the issues the child may have as the transition is made to an adoptive placement.
4. The caseworker shall ensure that the child's life book is prepared to accompany the child to the adoptive placement. The child's life book, including personal information regarding the child's life and family of origin that has been gathered by the foster family or biological family, shall be forwarded to the adoptive family. This may include written records, photographs, birth information, and schoolwork.

M. Steps to Prepare for an Adoptive Placement:

1. The caseworker shall provide ongoing support to the adoptive parents during the transition, placement, and supervisory period.
2. The caseworker will ensure that the child's case record and all other relevant information are available for the adoptive family to review. Information generated by Child and Family Services may be photocopied by the GRAMA specialist. Information from a third party provider may be read by the adoptive parents, but shall not be photocopied. Adoptive parents shall verify in writing that they received this information.
3. The caseworker shall inform the adoptive family about specific services that are available during the supervisory period and after finalization. These services may include adoption assistance, post adoption services, and/or training that may be available to help the parents respond to special needs of the child. Adoptive parents shall verify in writing that post adoption services were offered.
4. The caseworker shall notify the family that if they are requesting adoption assistance, an adoption assistance agreement must be signed prior to the finalization of the adoption.
5. The worker shall inform the family that they have the right to apply for adoption assistance. The regional adoption subsidy committee will

- 718 determine if the child qualifies. If the child is denied adoption assistance,
719 the family will be sent a notification of a right to a fair hearing at which
720 they can appeal that decision.
- 721 6. If the level of adoption assistance is offered at less than the requested
722 amount, the regional adoption subsidy committee shall send the family a
723 notification of a right to a fair hearing.
724
- 725 N. Court Fees - The adoptive parents are responsible to petition the court and pay
726 for fees associated with finalization.
727
- 728 O. Payment to Adoptive and Foster/Adoptive Care Parents Prior to Finalization:
729 1. The caseworker shall explain the appropriate types of adoption assistance
730 to the adoptive parents and assist them with the process.
731 2. The caseworker shall explain to the adoptive parents that funds for the
732 child who is not legally free for adoption are foster care funds.
733 3. The caseworker shall explain that assistance for the child who is legally
734 free for adoption may be foster care funds or upfront adoption assistance
735 funds if the child is eligible for adoption assistance and Child and Family
736 Services funding is available. The amount and type of payments for a
737 child in Child and Family Services custody placed with an adoptive
738 family may be the same as for any other child in custody until finalization.
739 4. The caseworker will negotiate the level of adoption assistance. The
740 adoption committee will approve or disapprove the negotiated level of
741 adoption assistance. If the proposed level of adoption assistance is
742 disapproved, the caseworker will renegotiate the level of adoption
743 assistance with the adoptive family prior to finalization.
744 5. The caseworker shall inform the family that they have the right to apply
745 for adoption assistance. The regional adoption subsidy committee will
746 determine if the child qualifies. If the child is denied adoption assistance,
747 the family will be sent a notification of a right to a fair hearing at which
748 they can appeal that decision.
749
- 750 P. Community Services - The caseworker shall inform adoptive parents of
751 appropriate community services, as needed, after placement but before the
752 adoption is final. The caseworker shall facilitate linking the family with
753 community services to help the child become successfully integrated into the
754 adoptive family.
755

- 756 Q. Information Regarding Court Proceedings - The caseworker shall help adoptive
757 parents understand the juvenile, district or tribal court proceedings for finalizing
758 the adoption.
759
- 760 R. Adoptive Placement from Another Region or Child and Family Services Office -
761 If it is necessary to remove a child who was placed with an adoptive family at the
762 request of another region, staff from the sending region shall establish a plan for
763 future placement based upon the needs of the child. The plan shall be submitted
764 for approval to the adoption committee and the region director in the region
765 where the child was placed.
766
- 767 S. Parent Support Groups - The caseworker may arrange for and facilitate parent
768 support groups for families who have adopted a child with special needs and
769 who request ongoing supportive services. The adoptive parents may be
770 encouraged to take an active role in developing and maintaining the support
771 group.
772

401.9 Post-Adoption Services

Major objectives

Prior to finalization, the caseworker shall inform the adoptive parents of post adoption services. Services shall be negotiated as part of the adoption agreement. To ensure the permanency of special needs adoptions, Child and Family Services will make available post adoption services for the child and family. Post adoption services shall focus on issues related to the adoption and special needs of the child. Services may include respite care, counseling, out-of-home care, parenting classes, adoptive parent support groups, and information and referral. These services may be accessible through adoption assistance funds, when appropriate.

Summary of the Law

No governing statute.

Procedures

A. Adoption Agreement Form:

1. Adoption Agreement For Child Who is Free for Adoption - The caseworker shall explain the adoption agreement form, which specifies the adoptive parents' responsibilities, the length of the supervision period (at least six months), training to be completed prior to finalization, requirements for the parents to notify Child and Family Services of major changes for the child, and Child and Family Services responsibilities.
2. Adoption Agreement for Child Who is Not Free for Adoption - The caseworker shall explain the adoption agreement form for a child who is not free for adoption and explain the status of the parents related to foster care, the adoptive/foster care parents' responsibilities, training to be completed during the first six months of placement, visitation requirements for the biological family, potential for reunification and removal, requirements for the parents to notify the Child and Family Services of major changes for the child, Child and Family Services responsibilities, and a statement regarding the legal risk status of the child.

B. Service Plan - The caseworker shall complete a written service plan according to the following:

1. If the child is placed in a new adoptive placement, a new service plan shall be established within 30 days of placement.

2. If the child remains in an existing placement with the status changing to adoption, modifications required in the service plan shall be documented in the progress notes. A new service plan shall be established to document the new status.
3. The service plan shall specify:
- a. Goals and objectives, with an outcome of adoption finalization;
 - b. Services to be provided and a time frame;
 - c. Who will provide post adoption services;
 - d. Frequency of caseworker visits; and
 - e. Adoptive parents' responsibilities during service plan period.
- C. Supervision - During the period after placement and prior to finalization of the adoption, the caseworker shall provide support to the child and family. If the placement is the child's initial placement, the caseworker shall visit the child at least once per week in the home during the first four weeks of placement. After that time, or if the child has remained in an existing placement, the caseworker shall make a minimum of two contacts with the child and family per month, at least one of which is in the home. The caseworker must document the progress and status of the placement as specified in the service plan.
- D. The supervision period shall be a minimum of six months, consistent with Utah law that requires that a child live with an adoptive family a minimum of six months before the adoption may be finalized. If the child has been in the home in a foster care placement prior to the goal being changed to adoption, the time in foster care may be counted as part of the supervisory period, when appropriate.
- E. Supervision may continue longer than six months, if needed. If the length of the supervisory period extends beyond six months, an estimate of the additional time needed for supervision shall be specified in the service plan.
- F. Courtesy Supervision for Another State or Private Agency - If courtesy supervision is being provided for an adoptive placement made by another state or private agency, the caseworker providing the courtesy supervision shall notify the agency originating the placement of the recommendation for removal of the child. A mutual decision shall be made regarding continuation of placement, supervision of the child with another adoptive family, or returning the child to the placing agency.

- 850 G. Caseworker Preparation for Court Proceedings - The caseworker shall be
851 prepared with the court and agency documents required for finalization, and
852 shall be prepared to testify as needed.
853
- 854 H. Utah Report of Adoption and Amended Birth Certificate - The caseworker shall
855 explain to the adoptive family that at finalization, the Utah Report of Adoption,
856 Utah Department of Health, shall be completed in order that an amended birth
857 certificate may be obtained with the names of the adoptive parents on the birth
858 certificate. The adoptive parents are responsible to obtain the birth certificate, if
859 desired.
860

401.10 Access To Adoption Records

Major objectives:

- A. Child and Family Services Adoption Records - When parental rights are terminated, the caseworker shall create a new file for the child from relevant information in the child's family file. The caseworker shall establish a separate file for each child or each sibling group placed with the same adoptive home.
- B. Access to Adoption Records - The information in the file relevant to an adopted child may be accessed by the adult adoptee or the adoptive parents. Identifying information about biological parents shall not be released by Child and Family Services, unless ordered by the court. A biological parent who has relinquished parental rights may only access case information up to the time of relinquishment. Information in the family file may be accessed as specified in the GRAMA procedures for Child and Family Services.

Summary of the Law

78-30-15

Court records related to an adoption may be released only by court order.

Procedures

- A. An option for sharing adoption information is a cooperative adoption, which is an agreement between adoptive parents and the birth family that allows sharing of information and/or maintaining a relationship between the child and identified members of the birth family, such as birth parents, grandparents, or other extended family members.
- B. Adoptee Request for Information - The region director shall designate staff who will respond to the following requests for information:
 - 1. Request for Identifying Information - An adult adoptee seeking identifying information about biological parents shall be referred to the court. If contact with the biological parents is desired, the caseworker may also suggest that the adoptee register with the Utah Department of Health Adoption Registry. [See: Utah Code Ann. [§78-30-18](#).]
 - 2. Request for Non-identifying Information - An adult adoptee seeking non-identifying information about biological parents, such as genetic and social history or health history [Utah Code Ann. [§78-30-16](#)], may request information from the Bureau of Vital Records as specified in Utah Code Ann. [§78-30-17](#).

- C. Biological Parent Request for Information - A biological parent requesting information about a child after relinquishment of parental rights shall be notified that information about the child may only be released by court order. It is the responsibility of the biological parents to obtain a court order. The caseworker may also suggest that the biological parent register with the Utah Department of Health Adoption Registry if contact with the child is desired. [See: Utah Code Ann. [§78-30-18](#).]

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ADMINISTRATIVE RULE

Rule R512-41. Qualifying Adoptive Families and Adoption Placement.

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KEY

Date of Enactment or Last Substantive Amendment

Authorizing, Implemented, or Interpreted Law

R512-41-1. Purpose and Authority.

A. As authorized by Sections 62A-4a-105 and 62A-4a-205.6, the Division qualifies adoptive parents and individuals for the adoption of children in the custody of the Division. This rule specifies the requirements used to qualify adoptive parents or individuals and the criteria for adoption placement.

R512-41-2. Definitions.

A. For the purpose of this rule the following definitions apply:

1. Adoptive Parent(s) means a family or individual who completes Division training for prospective adoptive parent(s) and is approved by a licensed child placement agency or by the Division.

2. Cohabiting means residing with another person and being involved in a sexual relationship.

3. Involved in a sexual relationship means any sexual activity and conduct between persons.

4. Permanency means the establishment and maintenance of a permanent living situation for a child to give the child an internal sense of family stability and belonging and a sense of self that connects the child to his or her past, present and future.

5. Residing means living in the same household on an uninterrupted or an intermittent basis.

R512-41-3. Requirements for Adoptive Parent(s).

A. Prospective adoptive Parent(s) who apply to adopt a child in the custody of the Division, including kin, Section 62A-4a-108, or Division employees, Utah Administrative Code, Human Services, R512-40-4, must meet all of the following requirements:

1. complete the adoption training program approved by the Division;
2. be assessed and approved as adoptive parent(s) following completion of a home study by a licensed child placement agency or by the Division;
3. obtain a foster care license issued by the Department of Human Services, Office of Licensure, or meet the same standards, or receive a written waiver from the Division of a standard;
4. receive a determination by the Division that no conflict of interest exists in the adoption process.

R512-41-4. Adoption Assessment Requirements.

A. An adoption assessment must be consistent with the standards of the Child Welfare League of America (the assessment may be done by a licensed child placement agency or the Division) and must include the following:

1. an autobiography of prospective adoptive parent(s) and family members;
2. a behavioral assessment of parent(s) and children living at home;

1019 3. a declaration that applicants are not cohabiting in a relationship that is not a legal
1020 marriage and in compliance with Section 78-30-9(3)(a and b)

1021
1022 4. a health status verification of parent(s) and children living at home;

1023
1024 5. a verification of financial status;

1025
1026 6. an assessment of home safety and health;

1027
1028 7. A criminal background check of all adults present in the home;

1029
1030 8. a screening of all adults present in the home against the child abuse data base;

1031
1032 9. an assessment of prospective adoptive parent(s) parenting skills;

1033
1034 10. recommendation of the types of children that may be appropriate for the
1035 prospective adoptive parent(s).

1036
1037 R512-41-5. Matching the Child and the Adoptive Parent(s).

1038
1039 A. In the matching process, the selection of adoptive parent(s) will be in the best
1040 interest of the child.

1041
1042 B. The decision must be based on a thorough assessment of the child's current and
1043 potential development, medical, emotional, and educational needs.

1044
1045 C. The capacity of the prospective adoptive parent(s) to successfully meet the child's
1046 needs and to love and accept the child as a fully integrated member of the family must
1047 be considered.

1048
1049 D. The child's preference may be considered, if the child has the capacity to express a
1050 preference.

1051
1052 E. When possible and appropriate, sibling groups should not be separated.

1053
1054 F. Foster care parent(s) (or other care giver with physical custody) of the child may be
1055 given preferential consideration for adoption if the child has substantial emotional ties
1056 with the foster parent(s)/care giver and if removal of the child from the foster
1057 parent(s)/care giver would be detrimental to the child's well-being.

G. Geographic boundaries alone should not present barriers or delays to the selection of adoptive parent(s).

H. The Indian Welfare Act (Public Law 95-608) takes precedent for an adoption of an Indian child who is a member of a federally recognized tribe or Alaskan native village.

I. Placements will be made in accordance with the Interethnic Adoption Act, 42 USC 1996b.

J. The division observes the following priorities for adoption of children in the division's custody:

1. Beginning May 1, 2000, the division gives priority for adoptive placements to families in which both a man and a woman are legally married under the laws of this state or valid proof that a court or administrative order has established a valid common law marriage as specified in Section 30-1-4.5. An individual who is not cohabiting may also be considered as an adoptive parent, if the Region Director determines it is in the best interest of the child.

R512-41-6. Adoption Decision.

A. Permanency decisions should be made in a timely manner recognizing the child's developmental needs and sense of time. The Division shall make intensive efforts to place the child with adoptive parent(s) within 30 days after the court has freed the child for adoption.

B. The Division will appoint and convene an adoption committee or committees to select adoptive parent(s) in the best interest of the child and to determine the level of adoption assistance, if any. The committee is also responsible for recommending removal of the child from a placement.

C. The adoption committee will consist of at least three members to include senior-level Division staff and one or more members from an outside agency with expertise in adoption or foster care.

D. Anyone who has information regarding the child and the potential matching families may be invited by the committee to present information but not to participate in the deliberations. The committee will reach its decision through consensus. If consensus cannot be reached, the committee will submit their recommendation to the

1098 Regional Director. The Regional Director may confer with the Division Director for the
1099 final decision.

1100
1101 E. The committee will make and retain a written record of their proceedings. All
1102 proceedings are confidential.

1103
1104 F. Any member of the committee who has a potential conflict of interest must recuse
1105 himself or herself from the proceeding.

1106
1107 G. The Division will send written notification of selection to the adoptive parent(s).

1108
1109 H. The Division shall provide detailed information about the child to the prospective
1110 adoptive parent(s), allowing sufficient time for the prospective adoptive parent(s) to
1111 make an informed decision regarding placement of the child. The information given to
1112 the adoptive parent(s) must be a full disclosure of all information available and
1113 committed to writing. Release of all documents is subject to the Government Records
1114 Management Act. The adoptive parent(s) shall be advised of possible financial and
1115 medical assistance available to meet the special needs of the child. The Division and the
1116 prospective adoptive parent(s) will acknowledge receipt of the information by signing
1117 the Division's information disclosure form. The Division shall respond to questions or
1118 concerns of the potential adoptive parent(s). The prospective adoptive parent(s) shall
1119 have the opportunity to meet the child prior to permanent placement.

1120
1121 I. A family or individual that is not selected for an adoption placement of a specific
1122 child shall have no right to appeal the decision, unless the parent(s) not selected for the
1123 adoptive placement is the child's current foster parent(s) and the foster parent(s) have
1124 completed all requirements. If the foster parent(s) are not selected for the adoptive
1125 placement, the foster parent(s) due process rights for removal of a child apply. Foster
1126 Parents Due Process, Utah Administrative Code, Human Services Rule, R512-31.

1127
1128 J. When approved adoptive parent(s) agree to accept the placement of a child for
1129 adoption, the adoptive parent(s) and a representative from the Division shall sign an
1130 adoption agreement on a form provided by the Division.

1131
1132 K. When adoptive parent(s) agree to accept the placement of a child who is not free for
1133 adoption, the parent(s) shall sign the Division's Foster Child Adoption agreement.

1134
1135 R512-41-7. Information Regarding the Adoptive Parent(s).

A. No identifying information regarding adoptive parent(s) shall be released to birth families without the written consent of the adoptive parent(s).

R512-41-8. Placement.

A. The Division will make every effort to make a smooth and effective transition of the child to the adoptive parent(s) with the cooperation of the foster family and others who have a supportive relationship with the child. All out-of-home requirements continue to be applicable until the adoption is finalized.

B. Adoptive parent(s) will have access to all relevant information in the case record to help them understand and accept the child and preserve the child's history. The Division will inform adoptive parent(s) of community services and adoption assistance available before and after the adoption is final.

C. The Division will develop a service plan within 30 days of placement and supervise adoptive parent(s), including frequent visits with the child for at least the first six months after placement.

D. Division supervision will continue until the adoption is final.

R512-41-9. Adoption Disruption/Removal of a Child from Adoptive Parent(s) Prior to Finalization.

A. The Division shall consider removal of a child before an adoption is finalized if adoptive parent(s) request removal or if serious circumstances impair the child's security or development.

B. Prior to removal, the Division shall respond to adoptive parent(s)' concerns in a timely manner, counsel with the adoptive parent(s) and, if possible and appropriate, offer further treatment, including intensive in-home services or temporary removal of the child from the home for respite purposes.

C. When removal is recommended, the adoption committee shall review the placement progress, present situation, and decide to either continue placement with further services or to remove the child from the home. The Regional Director will review and approve the decision.

D. If the adoption committee decides to remove the child, a Notice of Agency Action shall be sent to adoptive parent(s) notifying them of their due process rights. The

1177 adoptive parent(s) shall be offered the same rights as those offered a foster family
1178 regarding removal of a child, Utah Administrative Code, Human Services, Rule
1179 R512-31.

1180
1181 R512-41-10. Adoption Finalization and Post Adoption.

1182
1183 A. Before an adoption is final, the adoption committee shall review the placement,
1184 authorize finalization, and approve adoption assistance, when appropriate. Utah
1185 Administrative Code, Human Services, R512-43.

1186
1187 R512-41-11. Adult Adoptee or Adoptive Parent(s) Request for Records.

1188
1189 A. The adoption records of the Division shall be made available to the adoptive
1190 parent(s) or adult adoptee upon written request in accordance with the Government
1191 Records Access Management Act, Title 63, Chapter 2. An adult adoptee may also
1192 register with the Utah Department of Health Adoption Registry, Section 78-30-18.
1193